

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|---------------------------|---|-----------------|
| UNITED STATES OF AMERICA, |) | |
| |) | 8:13 CR 105 |
| Plaintiff, |) | |
| |) | |
| -vs- |) | MOTION TO SEVER |
| |) | |
| TIMOTHY DEFOGGI, |) | |
| |) | |
| Defendant |) | |
| |) | |

COMES NOW Timothy DeFoggi, by and through his attorney of record, James Martin Davis, and hereby moves the Court for an Order severing his case from any other defendants herein, and granting him a separate trial on all charges. In support of this Motion, the Defendant shows to the Court the following:

1. The Government has not produced any evidence indicating that there was interaction between the defendants in this action relating to the crimes alleged, nor does the Government appear to be alleging any such interaction.
2. The Government has not produced any evidence that the defendants herein participated in the same series of acts or transactions, and is merely alleging that the defendants both may have visited certain websites claimed to contain child pornography.
3. The Government has not alleged that the defendants in this case engaged in a joint enterprise or assisted each other in any of the offenses alleged.
4. The joinder of any other defendants herein relating to the charges alleged against this Defendant is extremely prejudicial to the rights of the Defendant in this action.

WHEREFORE, the Defendant moves the Court to sever his case from any co-defendants and grant him a separate trial herein.

Timothy DeFoggi, Defendant,

By: s/James Martin Davis #10927
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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that on November 6, 2013, I electronically filed the foregoing with the Clerk of United States District Court for the District of Nebraska, using the CM/ECF system, which will send notification of such filing to the following:

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s/ James Martin Davis